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In re Application of: Peter V. Radatti et al.
Application No.: 09/800,314
Filed: March 06, 2001
For: APPARATUS AND METHODS FOR
INTERCEPTING, EXAMINING AND
CONTROLLING CODE, DATA AND FILES
AND THEIR TRANSFER

)
) DECISION ON PETITION FOR
) ACCELERATED EXAMINATION
) UNDER M.P.E.P. §708.02(VIII)
)
)
)

This is a decision on the petition, filed July 14, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is DISMISSED.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
- (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
- (D) Submits one copy each of the references deemed **most closely related** to the subject matter encompassed by the claims if said references are not already of record; and
- (E) Submits a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how the claimed subject matter is patentable over the references**.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it does not comply with items (D), and (E) above:

(1) Applicant's statement "the related art is submitted" does not comply with item (D), which requires "the references deemed **most closely related** to the subject matter encompassed by the claims"; and

(2) Applicant's submission fails to comply with item (E) in that:

-The Applicant's submission of all of the prior art abstracts does not provide a detailed discussion of the references. The term "abstract" means "a summary of points... usually presented in skeletal form" (see Webster's Ninth New Collegiate Dictionary); therefore, the submission of the abstracts of the references does not meet the requirement of submission of a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references. It is also noted that Applicant submitted a copy of US Patent. No. 5,832,228, instead of 5,832,208 as indicated on list of the cited art. Thus, there was no submission of a copy of US Patent. No. 5,832,208 for the USPTO to consider.

-Applicant's statements, such as "there appears to be no mention of a parser," "Applicant is unable to locate," "[the reference] appears to combine packets," or "[the reference] appears to scan each character...," do not meet the requirement of item (E) (See the Petition, p. 13, lines 12-13, 15-16, 19, and 21; p. 14, lines 4, 9, 14 and 19; p. 15, lines 10-13 and 15). The use of the term "appears" in the Applicant's discussion implies some doubt about the existence of the claim elements in the references; and the term "unable to locate" in the Applicant's discussion implies that the claim elements may be in the references, but applicant is not able to locate them. These terms do not meet the requirement of item (E) because they do not clearly state that the particular claim elements are not disclosed in the references.

-Applicant's general statement "[n]one of these parser related patents... as in claim 1 of the present invention" on page 15, lines 17-20 of the Petition does not meet the requirement of item (E) because there is no discussion, with the particularity required by 37 CFR 1.111(b) and (c), of how the subject matter of claim 1 is patentable over specific references (e.g., there is no comparison between the terms of claim 1 and the disclosure of each of the references).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.



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